CWP No. 1425 of 2007

3.10.2007 Present: Mr. Ajay Mohan Goel, counsel for the petitioner.

Mr. Sandeep Sharma, counsel for respondent No. 1.

Mr. Rajiv Jiwan, counsel for respondent No. 2.

CWP No. 1425 of 2007:

Heard.

The petitioner was working as Private Secretary in H.P. Vidhan Sabha. A post of Senior Private Secretary was created and according to the petitioner, the Departmental Promotion Committee (D.P.C.) recommended the name of the petitioner for promotion to the newly created post of Senior Private Secretary on ad hoc basis with immediate effect vide order dated 28.2.2007. It was alleged that the Departmental Promotion Committee had considered the case of respondent No. 2 alongwith that of the petitioner for promotion to the post of Senior Private Secretary and finally recommended the name of the petitioner for appointment to the newly created post on ad hoc basis. It was alleged that no promotion rules had been framed till that date and recommendation was made by the Departmental Promotion Committee in the month of February, 2007. However, thereafter rules were framed and the petitioner was senior to respondent No. 2 so far as promotion to the Senior Private Secretary is concerned. However, respondent No. 1 promoted respondent No.2 to the post of Senor Private Secretary on recommendation of a duly constituted Departmental Committee

as per order dated 29.8.2007 on regular basis, which promotion made by respondent No. 1 has been challenged .

We had called for record of respondent No. 1. According to the recommendations made by the Departmental Promotion Committee at the time of giving ad hoc promotion to the petitioner in February, 2007, they had observed that since the rules had not been framed for promotion to the newly created post of Senior Private Secretary, the promotion be made on the basis of seniority subject to rejection of unfit and accordingly, the name of the petitioner was recommended for this post. The A.C.Rs of all the eligible persons were not considered. Therefore, it cannot be said that the Departmental Promotion Committee had promoted the petitioner on ad hoc basis on the newly created post of Senior Private Secretary after considering the A.C.Rs of the petitioner as well as respondent No. 2. The fact that the post in question is a selection post which is to be filled on the basis of merit-cum-seniority basis was alleged by the petitioner in Para 11 of the writ petition. After considering the record, A.C.R.s of petitioner as well as respondent No. 2, which we need not reproduce here, since it is a confidential record, respondent No. 2 was promoted on the recommendations of the Departmental Promotion Committee which had considered the A.C.R.s of both the officers and according to its recommendations, respondent No. 2 was promoted. When the post was selection post

and it has been filled up on the basis of merit-cum-seniority, no benefit can be taken by the petitioner that he was promoted on ad hoc basis earlier and as such, the impugned order promoting respondent No. 2 does not suffer from any illegality, which can be interfered with by this Court by exercising the writ jurisdiction.

There is no merit in the writ petition filed by the petitioner, which is dismissed accordingly. No order as to costs.

CMP No. 2318 of 2007:

In view of the orders passed in the main petition, this application has become infructuous.

(Deepak Gupta), J.

October 3, 2007 **(V.K. Ahuja), J.**
(BSS)